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C O N F I D E N T I A L SECTION 01 OF 02 PRETORIA 002617

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SUBJECT: SOUTH AFRICA'S CAMPAIGN FINANCE LAWS

Classified By: Economic Counselor Perry Ball. Reasons 1.4(b) and (d).

11. (C) Summary: South Africa is one of the few African countries that not only provides public funding of political parties, but also regulates and monitors those expenditures. However, public funding is not sufficient to run most larger political parties, especially during the run-up to elections. Consequently, South Africa's parties depend on member fees and small individual donations, and the larger parties also rely heavily on private donations from large corporations and business tycoons. In contrast to public funds, private donations are wholly unregulated and rarely disclosed to the public, leaving the door open to corrupt practices. End Summary.

Rules of Public Funding

12. (U) South Africa is one of the few African countries that not only provides public funding of political parties, but also regulates and monitors those expenditures. Political party funding is governed by the Public Funding of Represented Political Parties Act 103, which states that political parties which are represented in the National Assembly and provincial legislatures are eligible for public funds. New parties, like the Congress of the People (COPE), are not eligible until after they make it into parliament through an electoral process. Ninety percent of funds are paid in direct proportion to each party's aggregate representation in the National Assembly and provincial legislatures. The remaining ten percent is divided between the nine provincial legislatures based on the number of seats in each legislature. Each provincial legislature then divides that amount equally among all political parties in their province.

13. (U) All public funds are monitored by the Independent Electoral Commission (IEC) and audited yearly by the Auditor General. They may be used for developing political will and promoting political participation, shaping public opinion or influencing political trends, inspiring political education, and ensuring links between people and organs of the state. Public funds may not pay a salary to anyone on the government's payroll, finance anything that breaks any legislative code of conduct (i.e., bribery or corruption), be used to fund business ventures, or fund anything that is incompatible with a party's functioning in a modern democracy. Should the Auditor General find that a party has failed to comply with these rules, the party must repay the funds and the IEC has the right to launch a civil suit against the party.

No Rules For Private Donations

14. (C) There are no legal limits on how much parties can independently solicit or spend on an election, nor are there any requirements for disclosure of sources or amounts of private donations. Though smaller parties are heavily dependent on public funding, larger parties, especially the ANC and DA, receive the bulk of their funding from private donors, companies, and foreign governments. Some examples include Taiwan's large donations to the ANC during the 1994 election to ensure recognition or Jonathan Oppenheimer's financial contributions to the DA, which a DA MP credited as keeping the party alive during hard times. According to the Electoral Institute of Southern Africa (EISA) Senior Researcher, Dr. Khabele Matlosa, the main problem with private political funding in South Africa is that donations often come with strings attached, they are never disclosed publicly, and they are not regulated like public funds. Matlosa has long argued that private donations, which he suspects outnumber public funds five to one, should be regulated.

Quid Pro Quo?

15. (C) Matlosa told Deputy Economic Counselor and Socio-Economic Officer on November 21 that many big businessmen and corporations give with the understanding that they will be awarded state contracts in return. While he refused to single out any one person or company, he claimed to know "for certain" that this occurs and that tendering

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boards are not always immune from political influence. He added that if someone is asked for a donation to the ANC and refuses, they are assumed to be part of the opposition's camp and will be sidelined when contracts become available. Andre Fourie, the CEO of the National Business Initiative (a progressive big business group), disagrees with Matlosa, and told EconOffs said that he does not believe the ANC would punish those who did not give. However, he admitted that most companies do not know this for sure and do not want to take the risk. Fourie clarified that at the macro-level, contributions go directly to the party and are buying access to the party, not specific favors. At the local level, however, people are probably actually buying tenders or contracts and money goes to individual councilors. (Comment: There is a widespread perception in South Africa that corruption at the municipal level is a more serious problem than at the national level. End Comment.)

Big Business' Response

16. (C) According to Fourie, corporations constantly ask him for a "formula" to use for donating to political parties. A growing number of big corporations, including Standard Bank and insurance giant Sanlam, end up donating to political parties in direct proportion to their representation in Parliament in an attempt to remain neutral. He said that most big companies, however, would rather not donate at all, but do so for several reasons. First, many ANC heavyweights like Tokyo Sexwale and Cyril Ramaphosa sit on boards and encourage contributions. Second, most businesses feel they have to donate to curry favor with the ANC. Renier Schoeman, ANC National Coordinator of Corporate Liaison and Co-Convenor of the Progressive Business Forum, admitted to the Economic Counselor that he facilitates access through the ANC's Progressive Business Forum. Forum members, he said, have the chance to meet ANC heavyweights up to four times a year at business forum events in either Cape Town, Durban, or Johannesburg. Other fund-raising events for the ANC are held throughout the country. Vodacom Chairman Oyama Mabandla told the Economic Counselor that he has attended some of these

events, where he has witnessed businessmen publicly pledging over a million US dollars. (Comment: Some businesses may also feel indebted to give back to the ANC if they benefited from lucrative BEE deals. End Comment) Last, the ANC is very good at "arm-twisting." Fourie said that he himself had been invited to then-President Mbeki's house for lunch and found it impossible to refuse a request since "we all deep down want to be part of the club." Fourie also mentioned that in the run-up to the ANC's national conference at Polokwane in December 2007, ANC fundraisers warned companies that they would be reported to ANC leadership if they did not buy hospitality booths during the conference.

Problem Likely To Intensify

¶17. (C) In the short to medium-term, Matlosa said he does not expect campaign finance laws to be changed. Fourie, who has written publicly about the need for more transparency in private funding, said the ANC has privately asked him in the past to stop speaking out, arguing that the ANC will legislate eventually. However, Fourie believes they are in no hurry and neither is the Democratic Alliance, which fears Qno hurry and neither is the Democratic Alliance, which fears that many would stop giving if donations were disclosed.

Comment

¶18. (C) In theory, the combination of public and private funding of political parties has the potential to help level the playing field. Public funds help smaller parties incapable of raising significant private funds survive, while private funding encourages parties to be more accountable to their members, rather than the state that funds them. In practice, however, South Africa's proportional funding system will always favor the ruling party of the day to the detriment of other opposition parties by entrenching the outcomes of the previous election. Moreover, the lack of information or guidelines on how private donations are used creates the potential environment for abuse of resources and power, which eventually will undermine a level playing field.
BOST